

DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 1984-104
	)	
GOVERNMENT OF THE VIRGIN ISLANDS	)	
and VIRGIN ISLANDS WASTE MANAGEMENT	)	
AUTHORITY,	)	
	)	
Defendant.	)	
_____	)	

**ATTORNEYS:**

**Donald G. Frankel, Esq.**  
Newton, MA  
*For the United States of America,*

**Ronald Sharpe, USA**  
**Joycelyn Hewlett, AUSA**  
St. Thomas, U.S.V.I.  
*For the United States of America,*

**Claude Walker, AG**  
**Carol Thomas-Jacobs, AAG**  
**Kimberly Salisbury, AAG**  
**Ariel Marie Smith-Francois, AAG**  
St. Thomas, U.S.V.I.  
*For the Government of the Virgin Islands,*

**Kelvin Lambert Vidale, Esq.**  
St. Croix, U.S.V.I.  
*For the Virgin Islands Waste Management Authority.*

**ORDER**

**GÓMEZ, J.**

In March of 1984, the United States filed this action against the Government of the Virgin Islands (the "Virgin Islands"). The complaint alleged violations of the Clean Water Act ("CWA"), 33 U.S.C. § 1251 *et seq.* In September of 1985, the United States and the Virgin Islands entered into a consent decree (the "Original Decree") to resolve the claims in the complaint.

In 1991, the United States moved to hold the Virgin Islands in contempt for violating the Original Decree. Resolution of that motion resulted in a 1995 amended consent decree (the "Amended Decree"), which was entered by this Court on January 19, 1996.

The Amended Decree set forth a variety of initiatives. The overarching objective of these initiatives was

to cause the Virgin Islands to come into and remain in compliance with the Territorial Pollutant Discharge Elimination System ("TPDES") permits (including, without limitation, requirements related to proper operation and maintenance); any renewals of such permits in accordance with the CWA and regulations thereunder; and amendments to such permits in accordance with the CWA and regulations thereunder, and provision of applicable federal and territorial law governing wastewater discharges applicable to . . . waste water treatment plants ("WWTPs").

ECF No. 556, Exh. 3 at 3.

The Amended Decree currently binds the parties. It has, however, been modified on several occasions. On March 26, 2009, and March 16, 2016, the Court partially terminated the Amended Decree with respect to several WWTPs. In addition, on April 22, 2013, the Court entered a stipulated order (the "Stipulated Order"), which was modified on September 19, 2014 ("First Modified Stipulation").

On September 9, 2016, the Court held an evidentiary hearing. At the conclusion of the hearing, the Court instructed the parties to submit (1) a plan to reduce the number of manhole overflows; and (2) a plan that would enable the VIWMA to implement projects funded through EPA. The Court also voiced its intention to have this matter reviewed on a quarterly basis as the Court does in *United States v. Government of the Virgin Islands*, Civil No. 2008-158, a consent decree case involving the Virgin Islands Police Department.

On October 21, 2016, the parties submitted a Second Stipulated Modification of the Stipulated Order ("Second Stipulated Modification"). The Second Stipulated Modification called for raising the number of employees allocated to manhole overflow prevention and response from fourteen to seventeen. The additional employees would include a Director of Wastewater and

two operations and maintenance technicians for the St.

Thomas/St. John District. On January 6, 2017, the Court entered an order approving the Second Stipulated Modification of the Stipulated Order.

On February 22, 2017, the Court held an evidentiary hearing. At the hearing, the Court heard evidence with respect to several of the VIWMA's ongoing projects and obligations. Significantly, VIWMA has failed to meet deadlines for the completion of several projects and other obligations under the Stipulated Order. After the hearing, the Court directed the parties to negotiate revised deadlines for VIWMA's projects and obligations.

On March 7, 2017, the parties submitted a Third Stipulated Modification of the Stipulated Order ("Third Stipulated Modification"). The Third Stipulated Modification proposed extending the deadlines for several of VIWMA's capital projects. Specifically, the parties proposed extending the completion deadlines and milestones for the Cancryn Pump Station project, the Krause Lagoon project, and the telemetry project.

The Third Stipulated Modification also proposed extending the deadline to hire a Director of Wastewater and two technicians for the St. Thomas/St. John District from January 1, 2017, to May 31, 2017. The parties also proposed that the

Director of Wastewater have management authority over the St. Croix District in addition to the St. Thomas/St. John District.

Finally, the parties indicated that, by April 30, 2017, VIWMA plans to retain a private engineering firm to provide environmental consulting services and assist the implementation of projects funded by EPA grants. The parties believe that, in light of this planned retention, it is no longer necessary for the VIWMA to maintain at least ten full-time employees in the Engineering Division as required by the First Stipulated Modification. Accordingly, the parties proposed rescinding that requirement.

On March 7, 2017, the United States also filed a Stipulation Regarding Violations of Amended Consent Decree. The United States indicated that from January 1, 2013, through March 16, 2016, the VIWMA had committed several violations of the Amended Decree. Specifically, the VIWMA had exceeded the effluent limits established in the TPDES permits for the Cruz Bay WWTP, the Agnuilla WWTP, the Red Point WWTP, and the Mangrove Lagoon WWTP. The United States proposed that the VIWMA pay a penalty of \$20,000 for these violations. The United States further proposed that the VIWMA be granted the opportunity to pay the penalty in \$5,000 installments due 30 days, 90 days, 180

days, and 270 days from the Court's approval of the Stipulation Regarding Violations of Amended Consent Decree.

The premises considered, it is hereby

**ORDERED** that the Third Stipulated Modification of the Stipulated Order docketed at ECF Number 572 is **APPROVED**; it is further

**ORDERED** that the Stipulation Regarding Violations of Amended Consent Decree docketed at ECF Number 573 is **APPROVED**; it is further

**ORDERED** an evidentiary hearing in this matter shall be held on the fourth Wednesday of May, August, November, and February unless otherwise ordered by the Court; and it is further

**ORDERED** that at the evidentiary hearings, the parties shall be prepared to present such testimony and evidence as are necessary to apprise the Court fully of the status of the Amended Decree.

s\ \_\_\_\_\_  
**CURTIS V. GÓMEZ**  
**District Judge**